

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CORNELIUS R. SEPHUS,

Plaintiff,

VS.

LIBERTY MUTUAL INSURANCE
COMPANY,

Defendant.

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CIVIL ACTION NO. 4:13-CV-3709

OPINION ON DISMISSAL

Plaintiff Cornelius R. Sephus, a state inmate confined in the Texas Department of Criminal Justice - Correctional Institutions Division's (TDCJ-CID) James Allred Unit, has filed a *pro se* civil rights suit alleging breach of contract against Liberty Mutual Insurance Company. Plaintiff seeks damages totaling over three trillion dollars. (Docket No. 1.) Plaintiff seeks leave to proceed *in forma pauperis*.¹

Under 28 U.S.C. § 1915(g), a prisoner cannot file a civil action *in forma pauperis* in federal court if, on three or more prior occasions, while incarcerated, he brought an action that was dismissed for being frivolous, malicious, or failing to state a claim upon which relief may be granted. The only exception to this revocation of an inmate's privilege to proceed *in forma pauperis* is if he is in immediate danger of serious physical harm. Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998).

Plaintiff's present suit is clearly subject to the three-strikes bar under Section 1915(g) because his complaint does not indicate that he is in any danger and his litigation history reveals

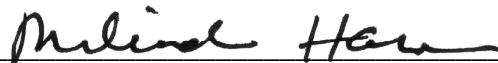
¹ Plaintiff did not file a proper motion to proceed *in forma pauperis*, however, he has not paid the filing fee and has submitted a copy of his Inmate Trust Fund account statement showing that he has no funds available.

that he has previously filed at least three frivolous cases in the federal courts. Sephus v. Pagan, No. 96-50689 (5th Cir., filed Sept. 18, 1995) (appeal dismissed as frivolous, sanction warning issued May 13, 1997); Sephus v. Adams, No. 5:05-CV-903 (W.D. Tex., San Antonio Div., filed Sept. 23, 2005) (dismissed with prejudice as frivolous October 31, 2006); Sephus v. Stelle, No. 4:05-CV-2080 (S.D. Tex., Houston Div., filed June 14, 2005) (dismissed with prejudice as frivolous August 8, 2007).

Accordingly, it is ORDERED that this complaint is DISMISSED under 28 U.S.C. § 1915(g) without prejudice to refiling with payment of the entire \$400.00 filing fee. Any pending motions are further DENIED.

The Clerk will provide a copy of this Order to Petitioner.

SIGNED at Houston, Texas, this 19th day of February, 2014.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE